

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 Before The Honorable Thomas S. Hixson, Magistrate Judge
4
5 EPIC GAMES, INC.,)
6 Plaintiff,)
7 vs.) Case No. C 20-05640-YGR
8 APPLE, INC.,)
9 Defendant.)

10
11 San Francisco, California
12 Tuesday, June 25, 2024

13 TRANSCRIPT OF PROCEEDINGS OF THE OFFICIAL ELECTRONIC SOUND
14 RECORDING 10:12 - 10:17 = 5 MINUTES

15 APPEARANCES:

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1 Tuesday, June 25, 2024

10:12 a.m.

2 P-R-O-C-E-E-D-I-N-G-S

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4 THE CLERK: Good morning, everyone. We are here
5 in Civil Action 20-5640, Epic Games Inc. versus Apple, Inc.,
6 the Honorable Thomas S. Hixson presiding.

7 Counsel, please state your appearances for the record.
8 Let's start with Plaintiff's counsel.

9 MR. EVEN (via Zoom): Good morning, your Honor.
10 This is Yonatan Even for Epic Games.

11 THE COURT: Good morning.

12 MR. PERRY (via Zoom): Good morning, your Honor.
13 It's Mark Perry at Weil for Apple, and I'm joined by Dana
14 Craig at Gibson, Dunn, also for Apple.

15 THE COURT: Good morning.

16 Thank you, Counsel, for the status report that you
17 filed on Friday. That was very helpful in apprising me of
18 where things stand. It's my understanding from the status
19 report that neither side is asking the Court to do anything
20 at this moment in time, but let me see if there are any
21 updates. Let me first turn to Plaintiff, Epic Games.

22 Is there anything that you would like to add to
23 Friday's status report?

24 MR. EVEN: I don't know that there's anything we
25 need to add, your Honor. I think the status report -- we

1 had a couple of emails since then. Nothing has shifted
2 dramatically. We have one disagreement in the emails about
3 dedicated repositories and what to do about them that we
4 need to meet and confer with Apple. Our view is that those
5 would be collected as -- as they are and produced to us
6 subject only to a privilege review. Apple is taking the
7 position that they need to review those for relevance even
8 though they're dedicated repositories for injunction
9 response work. We think that the Court has already ruled on
10 that in a prior hearing, and, so, we will discuss that. We
11 are continuing our work on the privilege log. Apple, we
12 understand, is continuing its work on our proposal on search
13 terms and custodians. We asked them to meet and confer
14 hopefully tomorrow, and I think that's more or less where we
15 are, and we'd be happy to obviously apprise the -- the Court
16 of any updates as soon as those happen. We think about a
17 seven-day update would be reasonable with some cadence
18 thereafter that's probably a little longer than that, maybe
19 a couple of weeks.

20 THE COURT: Okay. Thank you.

21 Apple, let me turn to you. Do you have any updates
22 from Friday's status report?

23 MR. PERRY: Thank you, your Honor. It's Mark
24 Perry for Apple. We do not. As Mr. Even indicated, the
25 parties have either agreed or come close on basically the

1 handful of issues that are not -- that are still
2 outstanding. I think we are trying to find a meet and
3 confer time for tomorrow that works, which is about a week
4 after we got the proposed custodian and search terms list.

5 I -- I think we are all hopeful that we can resolve the
6 -- there aren't, frankly, a lot of disputes. So, I'm
7 hopeful we can agree on a proposal and submit it to the
8 Court, and if we do have any disagreements, we would need to
9 seek the Court's guidance.

10 I -- I heard Mr. Even say seven days. We'd propose 14
11 days, largely because these things always take a little
12 longer than we expect and we have the 4th of July weekend
13 with attendant travel in there as well. So, I think the --
14 you know, that's just a timing issue.

15 I can address the one issue that -- that Mr. Even
16 raised as to reviewing these folders. I mean, we have to
17 review every document here because of the privilege issues.
18 Attorneys were involved here. So, again, we're not asking
19 the Court for relief. I think the parties can discuss this,
20 and we will come to a conclusion, but just to -- just to let
21 the Court know, there is two sides to every story, and we'll
22 -- we'll get to the right answer I'm sure at the end of the
23 day.

24 THE COURT: Great. Thank you.

25 My thought in terms of another status update would be

1 to instruct the parties to file on on July 3rd, which would
2 be next Wednesday and, thereafter, to file a status report
3 every 14 days.

4 Let me turn to Epic. Would -- would that work for you,
5 that schedule?

6 MR. EVEN: Yes, your Honor.

7 THE COURT: How about for Apple?

8 MR. PERRY: Yes, your Honor.

9 THE COURT: Okay. And then in terms of discovery
10 disputes, I do want the parties to meet and confer to see if
11 you can resolve things, but I don't want you to meet and
12 confer forever. You should meet and confer diligently, and
13 if you can resolve a dispute, then resolve it. And if you
14 have a disagreement, then I want you to bring it to me. I'm
15 here to resolve disputes, and if you have one or if you have
16 multiple ones, then please bring them to me in a joint
17 discovery letter brief, and we can get those resolved. I
18 think it's important to resolve disputes so that discovery
19 can move forward in an efficient manner.

20 So, again, please meet and confer diligently, and if
21 you find that you have a disagreement, then bring that to me
22 and bring it to me promptly so I can resolve that. But, so,
23 with that guidance, I order the parties to file a further
24 discovery status report on July 3rd and thereafter to file a
25 discovery status report every 14 days.

1 Let me turn to Epic Games. Is there anything else that
2 you would like to address at today's hearing?

3 MR. EVEN: I don't believe so. We are waiting for
4 the data mainly from Apple in order to assist any objections
5 they have to our list and their estimate of how long it's
6 going to take them, which we think is -- they've said six
7 months. We think that's unacceptable, but without the data,
8 we really are not in a position to -- to conduct that
9 discussion intelligently. So, hopefully, that comes
10 promptly, and we will update the Court by July 3rd.

11 THE COURT: Thank you.

12 And, Apple, let me ask you do you have anything else
13 that you would like to address at this hearing?

14 MR. PERRY: Nothing further today, your Honor.
15 Thank you for the Court's time.

16 THE COURT: All right. Thank you, Counsel. The
17 matter is submitted.

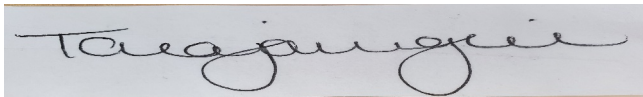
18 MR. EVEN: Thank you.

19 (Proceedings adjourned at 10:17 a.m.)
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CERTIFICATE OF TRANSCRIBER

I certify that the foregoing is a true and correct transcript, to the best of my ability, of the above pages of the official electronic sound recording provided to me by the U.S. District Court, Northern District of California, of the proceedings taken on the date and time previously stated in the above matter.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken; and, further, that I am not financially nor otherwise interested in the outcome of the action.

A handwritten signature in cursive script, appearing to read "Tara Jungi", is centered on a light gray rectangular background.

Echo Reporting, Inc., Transcriber

Thursday, June 27, 2024